

Ref: C02798let/L1L2.0.14.01/AF/llm

5 May 2000

Mr Robert Pullella
Office of Gas Access Regulation
Level 6 Governor Stirling Tower
197 St George's Terrace
PERTH WA 6000

Dear Mr Pullella

**DRAFT DECISION: ACCESS ARRANGEMENT FOR THE ALINTAGAS
MID-WEST & SOUTH-WEST GAS DISTRIBUTION NETWORKS**

Following a review of the Draft Decision by the Office of Gas Access Regulation ("OffGAR") in relation to the subject AlintaGas Access Arrangement ("Access Arrangement") and attending the public forum organised by OffGAR on 2 May 2000, ARC Energy NL ("ARC") would like to make the following submission on the Draft Decision.

As you will appreciate, as an active Perth Basin gas producer and marketer in WA, ARC has a strong interest in the ongoing deregulation process of the WA gas market and, in particular, the Mid-West and South-West regions. As such, gaining access to the AlintaGas distribution networks in a competitive, equitable and workable manner is a key to ARC's ongoing ability to offer consumers an efficient and cost competitive gas supply alternative. ARC and other Perth Basin stakeholders have played a key role in meeting and furthering the objectives of the WA gas market deregulation process and we are keen to continue that role to meet and satisfy the demands of gas customers as well as our shareholders.

However, as already discussed in various previous submissions by other industry stakeholders, and also raised during the recent public forum, the proposed Access Arrangement contains a number of highly contentious measures which we believe to be anti-competitive and, at the very least, contrary to the objectives and requirements of the Gas Pipelines Access (WA) Act 1998 ("GPAA"). Despite the previous strong criticism raised by industry on these issues, OffGAR, in its Draft Decision, has provisionally accepted these anti-competitive measures.

It is therefore the aim of this submission to object to the Draft Decision and to strongly appeal to OffGAR to reconsider the issues as set out below.

.../2

1. Gas Quality Specification

As you will be aware, the gas specifications relating to the AlintaGas distribution network are covered by the Gas Standards Act 1972 under regulations reviewed and subsequently issued in 1999. This Act was developed to cover natural gas supplied from the Perth Basin which was the sole supply source of natural gas into the AlintaGas distribution system until the completion of the DBNGP in the mid-1980's. As such, the suitability and safety of Perth Basin gas for use in the AlintaGas distribution system has long been established and proven.

The AlintaGas Access Arrangement now proposes to introduce more stringent gas specifications applicable to any third party wishing to transport gas through the AlintaGas system. This proposed change to the gas specifications, if accepted by OffGAR, will directly discriminate against Perth Basin gas as it would not be able to meet some of the more stringent proposed specifications.

You will appreciate that ARC is extremely concerned about this proposed amendment as it would affect the marketability of our gas and, as a consequence, the viability and future of Perth Basin gas production and exploration.

Given the historic acceptability of Parmelia Pipeline gas under the existing gas quality specifications applicable to the AlintaGas network, we must strongly question the objectives and timing of AlintaGas proposing to narrow the gas specification and thereby exclude Perth Basin gas from its system.

Whilst AlintaGas and the Office of Energy have publicly stated their support for a reconnection of the Parmelia Pipeline to the AlintaGas network (and thereby facilitating the supply of Perth Basin gas into its system), the actual progress of this interconnection to date has been extremely slow, with the allowable gas volume also being very limited. Moreover, with the impending change of ownership of AlintaGas, its ongoing long-term support for the interconnection project may not be assured, especially if it can refuse Perth Basin gas on the basis of the proposed gas quality amendments.

It is also of significance that the current AlintaGas network gas quality specifications (ie. as per the Gas Standards Act 1972) are comparable with those of other major Australian pipeline systems and, based on physical and historical evidence, do not pose any safety or quality problems for the AlintaGas distribution network.

We therefore see no reason for the requirement to narrow the gas quality specifications as proposed by AlintaGas other than to create a barrier to entry into the AlintaGas network for non-DBNGP gas.

We consider this proposal to be anti-competitive and, given AlintaGas' market power, it is considered to infringe on the relevant provisions of the Trade Practices Act.

In conclusion, we respectfully request OffGAR to reconsider its provisional support for this proposed gas quality specification amendment by AlintaGas and retain the specifications as per the Gas Standards Act 1972.

2. Standing Charge – Reference Tariff A

We note that the proposed \$50,000 per annum standing charge pursuant to Reference Tariff A has already come under strong criticism from other key industry stakeholders as it is highly excessive and, on face value, will substantially increase the distribution system cost component for those small to medium sized commercial gas customers that already are and will become contestable over the next two years.

It would appear that this proposed tariff structure by AlintaGas is a clear attempt to retain its existing customer base in the small to medium commercial sector and to make it very difficult, if not impossible, for third parties to compete in an effective manner. The assertion by AlintaGas in this week's public forum, that any customer who may be affected by this increase to any great extent, may be looked after by AlintaGas through a lower negotiated non-reference tariff so as to not suffer economic hardship, is further indication of their underlying objective. In other words, if AlintaGas does accept that many of its contestable commercial customers will be subject to substantial distribution network cost increases due to the proposed standing charge and, at the same time, is genuine about promoting fair competition amongst gas producers, traders and retailers, Reference Tariff A should have been structured to reflect a fair and reasonable charge for those customers in the relevant gas consumption brackets rather than levying an excessive fixed charge in the first place.

As has already been demonstrated in other previous industry submissions on this particular issue, the proposed \$50,000 standing charge will result in more than 1000% increases in the distribution cost component for many gas customers. It should come as no surprise that the customers most affected by this increase are those that have recently become contestable and those that will shortly be negotiating for a renewal of their contracts prior to becoming contestable on 1 January 2002.

Any tariff increases by a monopoly of this size and nature raise serious concerns as such increases can surely not be justified by AlintaGas on the basis of increased costs. Instead, AlintaGas has chosen to reallocate its costs in such a way that its most recently contestable customer base will be most affected. The underlying objectives and implications of this cost reallocation for market competition would seem more than obvious.

Whilst AlintaGas may argue that any "tariff anomalies" may be overcome through a negotiation process, it is our experience that the negotiation of non-reference tariffs with a monopoly service provider will be one-sided and is certainly not conducive to achieving a fair competitive market environment, especially where prospective network users will continue to compete with AlintaGas' trading/retailing arm. Despite OffGAR's assurances that it will monitor any AlintaGas "inhouse" discounting/cross-subsidisation arrangements not offered to other third party users, we strongly doubt the transparency and, hence, the effectiveness of this negotiation process.

It simply can not be in the best interest of promoting/creating a competitive environment to initially set an artificially high fixed charge for a certain consumer group, and then invite prospective users of the distribution network to negotiate a “better deal” with a monopoly service provider that has competing interests.

In summary, ARC considers the proposed standing charge pursuant to Reference Tariff A to constitute a substantial barrier to entry for any competitors of AlintaGas and we do not consider it cost reflective nor conducive to promoting an efficient competitive environment.

ARC therefore respectfully requests that OffGAR reconsiders its draft decision in relation to Reference Tariff A in order to remove the anti-competitive, high-cost element from that structure.

3. Interconnection Distance Calculation – Reference Tariff A

We note that in its Access Arrangement AlintaGas proposes to change the distance calculation for Reference Tariff A customers to ensure that such customers will not be supplied directly from another pipeline which may be in closer proximity to the customer’s site than the DBNGP. AlintaGas justifies this new approach on the basis of mitigating against the risk of inefficient by-pass of the AlintaGas network.

ARC is extremely concerned by OffGAR’s support for this amendment as it not only further enhances AlintaGas’ monopoly position but also directly discriminates against non-DBNGP gas which may be able to be provided to a customer directly from another pipeline in a more cost effective manner.

The amendment’s objective is to remove a key incentive for AlintaGas customers to negotiate with non-DBNGP gas suppliers where cost savings can be obtained via a direct hook-up to another pipeline (in this case, the Parmelia Pipeline). Whilst the customer itself will be offered the lower tariff and will therefore be satisfied, AlintaGas’ unrecouped distribution cost for supplying that customer through its network at a lower tariff will be subsidised by AlintaGas’ other customers (eg. through the excessive \$50,000 standing charge).

In ARC’s view, this extremely contentious amendment aimed directly at Perth Basin suppliers can not be supported or justified on economic and efficiency grounds and it reflects yet another anti-competitive measure to be introduced by AlintaGas with a view to retain its monopoly position and preventing other parties from engaging in competitive conduct.

ARC therefore respectfully requests an amendment to be made by OffGAR to the relevant provision of the Access Arrangement which would remove this anti-competitive measure.

ARC is most concerned with the direction the deregulation process appears to be taking and would welcome the opportunity to further discuss with you our concerns as set out in this submission in regards to the proposed Access Arrangement and OffGAR's Draft Decision.

Yours sincerely

ALEX FORCKE
Executive Director - Commercial